

Application No. 10/695,429
Amendment Dated: February 24, 2011
Reply to Office Action of: November 24, 2010

REMARKS/ARGUMENTS

Claims 40 - 42 and 44 are currently pending in this application. Claims 1-18 and 30-32 stand withdrawn. Claims 19-29, 33-39, 43 and 45-47 are cancelled. Claim 40 has been amended. Reconsideration of the rejection of this application in view of the above remarks and the following comments is respectfully requested.

Claims Objections

Claim 40 was objected to because of informalities due to the recitation in line 1 of "a blade-guard assembly". That phrase has been changed to "the blade-guard assembly" as suggested. With this change, the informality has been corrected.

Claim Rejections - 35 USC §112

Claims 40-42 and 44 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner has objected to the expression "with said blade guard being connected to said cutting blade". In order to facilitate the prosecution of this application, this expression has been deleted from claim 40. It should be noted that as the cutting blade is connected to the hub and the hub connected to the blade guard, the cutting blade is connected to the blade guard.

Claim Rejections - 35 USC §102

Claims 40-42 and 44 were rejected under 35 U.S.C. §102(b) as being anticipated by Matthai et al. (5,702,415). Reconsideration of this rejection in view of the newly amended claims is respectfully requested.

Claim 40, the only independent claim in the case, now recites a blade-guard assembly for use in a rotary trimmer comprising a cutting blade having a

plurality of apertures. A hub is connected to the cutting blade. A blade guard is secured to the hub and forms a blade guard assembly with the cutting blade. The blade guard covers the cutting blade such that at least a portion of the cutting blade is exposed for cutting. The blade guard, cutting blade, and hub are a unitary structure so that the blade guard assembly is removable from, and placeable on the rotary tool as a unit.

Claim 1 is quite clear that the blade guard assembly is a unitary structure consisting of the blade guard, hub, and a cutting blade that form a unit. This unit, is removable from, and placeable on the rotary trimmer as a unit without the cutting blade being disconnected from the blade guard or hub.

The Examiner has cited the Matthai et al reference in connection with Claim 40 for a showing of a rotary trimmer comprising a cutting blade 9 having a plurality of apertures, a hub (12, 81) connected to the cutting blade and a blade guard 86 secured to the hub.

As stated in *Therasense, Inc. v. Becton, Dickinson & Co.*, 593 F.3d 1325, 93 USPQ 2D1481 (Fed. Cir. 2010)

The way in which the elements are arranged or combined in the claim must itself be disclosed, either expressly or inherently, in an anticipatory reference. “Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983). The requirement that the prior art elements themselves be “arranged as in the claim” means that claims cannot be “treated...as mere catalogs of separate parts, in disregard of the part-to-part relationships set forth in the claims and that give the claims their meaning.” *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1459 (Fed. Cir. 1984). “[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102. “*Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008) (emphasis added).

It is submitted that the Matthai et al. reference does not satisfy the criteria for anticipation as set forth in the above citation. The Matthai et al. reference does not disclose all the elements of the claimed invention arranged as in the claim.

In the arrangement shown in the Matthai et al. reference, the uncovered cutting blade is inserted between the cap 80 and the top of a cup washer 60. After the blade is properly positioned, a hold down screw is tightened to hold the blade in place. During the entire installation process, the blade is not connected to any type of the cutting guard.

The structure 80 in the device in the Matthai et al. reference, which the Examiner considers the blade guard, is a cap that is removable secured to the top wall of the housing 13 of the hand piece before the installation of the blade. The cap 80 is not connected in any way that would enable it to be removed from, and placed on, the hand piece as a unit with the blade.

The Examiner considers the structure indicated by the reference numerals 12, 81 of Matthai et al. reference to be the hub as set forth in the claims. The structure indicated by the reference numeral 12 is a chuck that is mounted in the hand piece. Reference numeral 81 refers to the top wall of the housing. Neither of these structures is removable from the hand piece of the tool when the blade is removed.

Claim 40 specifically requires that the cutting blade is secured to the hub and the hub in turn is connected to the blade guard forming a blade guard assembly that is removable from, and placeable on, the rotary trimmer as a unit. There is no way that this can be said to be true of the device shown in the Matthai et al. reference. In the Matthai et al. reference, the blade is inserted into the tool as a single element. What the Examiner considers to be the hub and the blade guard are a part of the hand piece, and cannot be removed as a unit with the cutting blade.

As the Matthai et al. reference does not show or disclose all the elements of the claimed invention arranged as in claim 40, that reference cannot be said to anticipate the claim. Accordingly, claim 40, and its dependent claims 41, 42 and 44 are patentable over the Matthai et al. reference.

Claims 40-42 were rejected under 35 U.S.C. 102 (b) as being anticipated by Schulz et al. (5,765,289). Reconsideration of this rejection is respectfully requested.

The Examiner maintains that Schulz teaches a blade-guard assembly for a rotary trimmer comprising a cutting blade 22 having a plurality of apertures, a hub 32, and a blade guard 42 secured to the hub and forming the blade guard assembly. The Examiner maintains that the three small U-shaped “apertures” on the circumference of the big central aperture are the apertures as referred to in the claim.

In the Schulz et al. device, the blade is attached to the head 16 of the cutter 10 by means of a headed shaft 32 that extends through the guard 42, cutting blade 22 and an aperture in the head 16 of the cutter 10. The headed shaft is retained in place by a retainer nut 38. As can be clearly seen in Figure 5 of the Schulz et al. reference, in order for the blade to be removed, the retainer nut 38 must be removed from the shaft 32, the shaft 32 and guard removed from the body 16 of the cutter and the blade then removed by itself. There is no disclosure of a blade, hub and guard being removable from, and replaceable on, the cutter as a unit to change the blade. The guard and shaft are not meant to be replaceable as they are an integral part of the cutter.

Additionally what the Examiner considers to be a plurality of apertures are merely part of the shape of the single central aperture. Thus, there is not a plurality of apertures as claimed. In addition, the U-shaped portion of the central aperture does not appear to cooperate in any way with shaft (hub) as claimed.

As the Schulz et al. reference does not show or disclose all the elements of the claimed invention arranged as in claim 40, that reference does not meet

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the criteria for anticipation as set forth in *Therasense, Inc.* quoted above and cannot be held to anticipate the claim. Accordingly, claim 40, and its dependent claims 41, 42 and 44 are patentable over the Schulz et al. reference.

In the Examiner's Response to Arguments in the last Office Action, it is noted that the claimed feature of the blade guard assembly being removable from, and placeable on, the rotary trimmer as a unit was not addressed. As discussed above, this feature is not shown in the cited art.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the claims now pending in this application, patentably define over the cited art taken alone or in any possible combination. Favorable consideration of the claims now in the case is earnestly solicited.

Respectfully Submitted,

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